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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/790,158	03/01/2004	John B. Bartell	710101.1250	9975
24504 7590 02/06/2008 THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP 600 GALLERIA PARKWAY, S.E. STE 1500 ATLANTA, GA 30339-5994				
			EXAMINER PATEL, AJIT	
			ART UNIT 2616	PAPER NUMBER
			MAIL DATE 02/06/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/790,158

Applicant(s)

BARTELL ET AL.

Examiner

AJIT G. PATEL

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

1. Claim 11 recites the limitation "said communication device" in line 2. There is insufficient antecedent basis for this limitation in the claim.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Sugawara (US Pat. # 5,313,456).

Regarding claim 1, Sugawara discloses a data link protection system comprising: a first transceiver (LIU a of fig. 3) coupled to a first communication connection extending from said central office (COT of fig. 3) to said remote premises (RT of fig. 3), said first transceiver configured to communicate with a transceiver located at said central office; a second transceiver (LIU b of fig. 3) coupled to a second communication connection extending from said central office to said remote premises; and control logic (MPU 1 of fig. 3) residing at said remote premises, said control logic configured to detect an error condition associated with communication between said first transceiver and said transceiver located at said central office, said control logic configured to transmit, in response to a detection of said error condition, a switch notification to said central office via said second transceiver and said second communication connection, wherein at least one component at said central office is configured to route data over said second

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communication connection in response to said switch notification (line 19 of col. 3 to line 11 of col. 4).

Regarding claims 2, 24, Sugawara discloses "wherein said at least one component switches, in response to said switch notification, communication from said first communication connection to said second communication connection" (SWa, SWb --- of fig. 4).

Regarding claims 3, 13, 18, 22, Sugawara discloses a first chassis and a second chassis (LIU A---LIUD of fig. 4) located at said central office, wherein said transceiver (LIU A of fig. 4) located at said central office is mounted in said first chassis, and wherein a third transceiver (LIU B of fig. 4) mounted in said second chassis is configured to receive said switch notification and to backup said transceiver mounted in said first chassis based on said switch notification.

Regarding claims 4, 24, Sugawara discloses "wherein data to be communicated over said first communication connection is communicated, based on said switch notification, over said second communication connection in lieu of said first communication connection" (B' of fig. 4).

Regarding claim 5, Sugawara discloses "wherein said second communication connection provides a management link and a communication link between said remote premises and said central office" (B and B' of fig. 4).

Regarding claim 6, Sugawara discloses "wherein said management link is terminated by a framer, and wherein said communication link is terminated by said second transceiver" (it is noted that the management link B' must be terminated by RT side

since the RT side has initiated the switch notification signal and the communication link should be terminated by the COT side) since the communication is initiated by the COT.

Regarding claims 7,19,25, Sugawara discloses wherein said management link is terminated prior to said error condition, and wherein said second transceiver is configured to terminate said communication link in response to said switch notification (it is noted that when the communication link is established between the COT and RT and prior to the error occur, it is not necessary to have management link which means the management link is terminated. When the error occur it is necessary to have the management link to carry the control information from the RT to COT).

Regarding claim 8,19,15,25, Sugawara discloses wherein said management link is terminated by a framer prior to said error condition (it is noted that when the communication link is established between the COT and RT and prior to the error occur, it is not necessary to have management link which means the management link is terminated. When the error occur it is necessary to have the management link to carry the control information from the RT to COT).

Regarding claim 9,14,16, Sugawara discloses a switch (SW2 of fig. 3) coupled to a communication device (SUBSCRIBER'S APPARATUS of fig. 3) and to said first and second transceivers (LIU a --- LIU d of fig. 3), wherein said control logic (MPU 1 of fig. 3) is configured to change a state of said switch in response to said detection of said error Condition.

Regarding claims 10,23,, Sugawara discloses wherein said control logic changes said state in response to said detection such that said first transceiver is electrically isolated

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from said communication device and such that said second transceiver is conductively coupled to said communication device (lines 17-58, col. 4).

Regarding claim 11, Sugawara discloses wherein said at least one component is configured to route data destined for said communication device to said first transceiver prior to said error condition, said at least one component further configured to route data destined for said communication device to a third transceiver based on said switch notification, said third transceiver coupled to said second communication connection and configured to communicate with said second transceiver (SW2 of fig. 3)

Regarding claims 12,17 and 21, Sugawara discloses a communication device in communication with said first transceiver; and control logic residing at said remote premises, said control logic Configured to initiate, in response to a detection of an error condition, a backup switch such that said communication device communicates with said second transceiver in lieu of said first transceiver, said control logic further configured transmit information indicative of said backup switch to said central office, wherein data destined for said communication device is transmitted, based on said information, to said second transceiver via said second communication connection in lieu of said first communication connection (lines 15, col. 3 to line 11, col. 4).

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to AJIT G. PATEL whose telephone number is 571-272-3140. The examiner can normally be reached on MONDAY- FRIDAY.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynn Feild can be reached on 571-272-2092. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AP

  
Ajit Patel  
Primary Examiner